

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

JENNIFER HSU,

Plaintiff,

Case No. AU:17-CV-00128-RP

v.

ENHANCED RECOVERY
COMPANY, LLC, and
PHILADELPHIA INDEMNITY
INSURANCE COMPANY,

Defendants.

DEFENDANTS' REPORT ON ALTERNATIVE DISPUTE RESOLUTION

COME NOW, Defendants, Enhanced Recovery Company, LLC ("ERC") and Philadelphia Indemnity Insurance Company ("Philadelphia") (together with ERC, the "Defendants"), by and through undersigned counsel, and pursuant to Local Rule CV-88 and the Scheduling Order, hereby submit the following Alternative Dispute Resolution Report, and show the Court as follows:

Status of Settlement Negotiations

The Defendants have conferred with Hsu on the appropriateness of ADR methods in the above-referenced matter. The Parties have already engaged in informal discussions in an effort to resolve this dispute. Thus far, those efforts have been unsuccessful, however, the Defendants will continue to work with Plaintiff in an attempt to resolve this case informally. At this time, the Defendants are not inclined to engage in mediation or other forms of ADR, as the expense of those efforts is not commensurate with the amounts at issue in this claim and may actually

impede settlement. On May 8, 2017, Hsu filed a partial motion for summary judgment and briefing on this motion is not complete. Defendants also desire to file dispositive motion in this case. Because of the respective difference in Hsu's and Defendants' views on the merits of this action, until dispositive motions are fully briefed and decided, the Defendants do not believe it necessary to engage mediation or other forms of ADR. Further, in light of the limited statutory damages available in this case, Defendants do not believe formal ADR methods are appropriate in this case. However, Defendants will continue to engage Hsu in informal settlement discussions as the litigation proceeds and, to the extent appropriate, will pursue settlement once dispositive motions are fully briefed and decided.

Defendants attempted to correspond with Hsu's attorney in an effort to get a Joint Report on Alternative Dispute Resolution on file. However, Defendants were unable to reach Hsu's attorney and obtain his agreement on the proposed joint motion and, therefore, file this report on behalf of Defendants only.

Persons Responsible for Settlement Negotiations

The person responsible for settlement negotiations on behalf of the Defendants is Michelle Gensmer, Senior Director of Legal for ERC.

Dated May 24, 2017.

Respectfully Submitted,

SMITH, GAMBRELL & RUSSELL, LLP

By: /s/ Yash B. Dave

Yash B. Dave

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Attorney for Defendant

CERTIFICATE OF SERVICE

I certify that on May 24, 2017, I filed the foregoing with the Clerk of Court using the CM/ECF system, which will serve a true and correct copy of the foregoing to:

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